

REMARKS

Claim 1 has been revised to stress, with greater clarity, that applicant's door stay precludes the door from closing to a point at which the door is within the door frame. Dependent claims 2-9 recite additional features that contribute to the successful operation of applicant's esthetically pleasing toy with its operational advantages.

In contrast, Radcliff, the principal reference cited by the Examiner, discloses an improved door latch holder that is mounted on the two knobs 3, 5 of door 1, and having a central portion designed to overlie door latch 7. The door latch is retracted into the door so that the door may be opened and closed without twisting one of the knobs thereof (emphasis added). The door latch holder in Radcliff, however, permits "frictional retention" of the door within the door frame, as noted in column 2, lines 42-49.

Admittedly, stuffing 23 can be inserted through slot 15 in body 11 to expand the thickness of chamber 14. The increased thickness of the body in Radcliff will increase the "frictional retention" of the door within its jamb. However, no mention is made in Radcliff of precluding the door from closing to a point at which the door is contained within the door frame. Radcliff did not intend to solve the problem addressed by applicant, and the solution attributed to Radcliff represents a hindsight reconstruction of applicant's invention, as reflected in independent claim 1, as amended, and dependent claims 2-9, as previously presented.

The combination of Radcliff, which lacks the pleasing toy characteristics of applicant's device, with Crook, is ill-conceived, as will be demonstrated hereinafter.

The Examiner asserts that "Crook teaches that it is well known to provide a door closing device that comprises a toy (60) having a first and a second part adapted to be supported by a handle and an intermediate part (the body of the toy)" (emphasis added).

Attorney for applicant suggests that the Examiner has mischaracterized the secondary reference to Crook. To illustrate, the door holder disclosed by Crook is designed to hold the door ajar, as noted in the last line of the Abstract, and reiterated in column 3, lines 10-11. Also, toy 60 in Crook is not supported by door handle 21, but is secured to bracket 40 by belt 50 which encircles the waist of toy 60, as shown in FIGS. 3 and 4. Elastic ring 21 is stretched over the head and neck of door knob 13, as shown in FIG. 4, but the body of the toy is retained upon bracket 40 by belt 50 and screws 45, 47 which retain the belt in operative position, as shown in FIG. 2. Fasteners 23 may be snapped about the wrists of arms 67, with enlarged hands 69, to receive the opposite ends of ring 21, thereby retaining door 11 in open position.

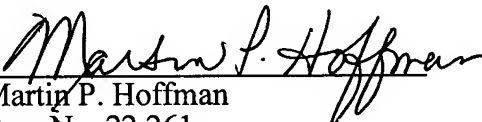
Thus, it is readily apparent that Crook discloses a door holder specifically configured to hold a door open. Crook, if fairly and accurately construed, "teaches away" from the door stay envisioned, and claimed, by applicant. Similarly, Crook provides no suggestion, or teaching, or rationale, for combining same with the primary reference to Radcliff.

Claims 1-9 are presented for consideration on their merits. Claim 1 has been re-drawn to more fully point out the unique, distinctive structural features found in applicant's door stay. Dependent claims 2-9 further particularize applicant's invention.

The instant Amendment corrects an informality on page 8 of the specification. The instant Amendment raises no new issues, and entry thereof will not require a new search. Thus, attorney for applicant seeks (1) entry of the Amendment, at least for purposes of Appeal, and/or (2) favorable consideration thereof.

Attorney for applicant expects to receive a prototype of the applicant's door stay, from Australia, in the next few weeks. As soon as the prototype is received, attorney for applicant will call the Examiner to schedule an interview and/or to deliver the prototype to the Examiner for inspection.

Respectfully submitted,


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